GOVERNOR'S MESSAGE.

(Concluded from page 347.)

Years.	Value of real estate.	Value of personal prop'ty.	Total on grand Duplicate.
1841	$100,851,837	$27,501,820	$128,363,657
1847	324,396,008	79,151,765	403,547,473
1854	565,000,000	235,000,000	800,000,000

The amount for 1854 is partly estimated, but will not vary much from the actual result.

The valuation last had, brings much property which had hitherto escaped, upon the tax list. It also approaches, as near as is possible under any system, to the real value of the property. With very few exceptions, therefore, the rule of equality of burdens may be deemed as permanently established in Ohio.

The Banks acting under charters from the General Assembly, form the only formidable exception to the acquiescence in this just and equitable rule. They have appealed from the State authorities to the Courts of the United States, in consequence of which I have been under the necessity of engaging counsel to represent the interests of the State before that tribunal.

An arraignment of State sovereignty, under our peculiar form of Government, before the Federal Judiciary, is always a matter of doubtful expediency. It should certainly never be resorted to by institutions of our own creation, upon which the State has conferred large and valuable privileges, and from which she now exacts nothing but their fair and equal proportion of the burdens of government.

A similar course was formerly pursued by an institution established in our midst by Federal authority, and which, therefore, instinctively looked to Federal protection and support. The Bank of the United States, it is true, was partially successful at Washington, but where is it now? The people have advanced with unprecedented rapidity in all the elements of prosperity and greatness, while not one trace or vestige of that proud institution is to be found within our borders. On the part of the State Banks this course is the more reprehensible, as the appeal is made by foreign stockholders, upon whom the State has bestowed rights of an exclusive and highly lucrative character.

They, too, complain of high taxes. I have already remarked with some freedom on this subject, and it is gratifying to find that these institutions, impelled probably by their own interest, are beginning to unite with the great body of the tax-payers of the State, in laboring to promote a greater degree of economy in all public expenditures.

It is incorrect to suppose that the original policy of taxing Banks on their profits only, was adopted with any view of taxing them less than individuals. On the contrary, it was claimed to be a higher grade of State taxation; and the Banks often boasted that prior to 1846 they paid more than individuals.

The growing magnitude of State—especially of local—taxation, however, led the people to demand that these institutions, should, equally with themselves, be brought within its range. Hence arises the present conflict.

The higher grade of State taxation placed in the charters became in the course of time a lower one, even for State purposes, to say nothing about the local and many other burdens which are necessarily borne by individuals. An effort was made in 1846, at a time when the whole basis of the revenue laws was changed, and when the inequality referred to became clearly apparent, to subject the Banks, not as formerly to a higher and special rate of taxation, but to the same that was prescribed for and imposed on individuals. This effort, so fair and equitable at the time, was successfully resisted. It continued however to be insisted upon, and the provision upon that subject in the new Constitution, has been the result. This provision relieves the Banks from the payment of the rates contained in their charters, and which they alleged were so much greater than those paid under the general revenue laws of the State, and only requires that "all property employed in banking, shall always bear a burden of taxation equal to that imposed on the property of individuals." This burden is now heavy, but a constantly increasing duplicate will, in a very few years, greatly reduced it. The amount required to meet the interest on the public debt is annually diminishing, and the temporary causes that now tend to keep up the taxes, will soon disappear. The Banks can therefore gain but little by a perseverence in their present course, while injury and final ruin may be the consequence.

The duty of the General Assembly is plain and unquestionable. The requirements of the Constitution must be carried out. In this determination the people and every branch of the State Government are united, and will sustain each other by the most cheerful co-operation. The Banks should look beyond the legal issue. No one should desire to live among an industrious and heavily taxed people, without bearing a fair and equal proportion of the necessary burdens of the state.

The new Constitution made three important changes in the Judicial department, referring to the manner of electing the Judges, the organization of the Courts, and the mode of proceeding in the administration of justice.

The fourteenth article requires that the General Assembly shall provide for the appointment of three Commissioners to revise, reform, simplify and abridge the practice, pleadings, forms and proceedings of the Courts of Record of this State, and as far as practicable and expedient, provide for the abolition of the distinct forms of actions at law, then in use, and for the administration of justice by a uniform mode of proceeding, without any distinction between law and equity.

These Commissioners were appointed, and on the 15th of January, 1853, made their report to the General Assembly, then in session. They reported a Code of Civil Procedure, which has gone into operation as a statute of the State.

The changes made by this Code are radical and thorough, and seem to fully meet the requirements of the Constitution.

The actions at law heretofore in use are abolished and justice is to be administered by a mode of proceeding without reference to any distinction between law and equity. Technicalities and fictions in pleading are no longer required. The parties, in stating their claim and defence, must tell the truth, and in ordinary and concise language.

To discourage unjust claims and false defences, to dispense with unnecessary proof, and to prevent a recurrence to formality and fiction, every pleading of fact must be verified.

To get at the whole truth in every case, the parties to the action, and all other persons, with few exceptions, are allowed to testify.

These changes put an end to the old system of practice, and aim to substitute for it what the people have long demanded, a simple, intelligible and economical mode of procedure for the administration of justice.

The new Code went into operation on the second day of July last, and sufficient time has not yet elapsed to test the wisdom and practicability of all its provisions. That most if not all of them are real and important reforms, I have no doubt. It is to be expected that in the beginning they will give rise to some embarrassment, but it may be chiefly the embarrassment of change.

In view of the importance of this subject, and of the untried condition of this law, I consider it proper to recommend great caution in any further immediate legislation upon it. It seems to me it will be wiser to wait for the modifications suggested by experience, than hastily to adopt those of mere theory

It will be observed that the requirement of the Constitution referred to, applies as well to the Criminal as to the Civil Code. The Code reported and enacted relates only to civil procedure; and the term of office of the Commissioners heretofore appointed, ended by limitation on the first Monday of March last. You will, therefore, consider the propriety of creating a further Commission to prepare a Criminal Code.

The Reports of the Directors and Warden of the Penitentiary, will place before you a very full account of the management and condition of that institution.

The laws have been executed with mildness and humanity, and all proper efforts made to reform the unfortunate convicts who are confined within its walls.

Many of those whose offences resulted from intemperance, unrestrained passion or evil associations, it is confidently believed will abandon the error of their past course, and on leaving the institution, become useful members of society.

The exercise of the pardoning power, is one of the most delicate and perplexing duties imposed on the executive. Applications for pardons, during the past year, have been almost as numerous as the convictions, and there are very few who are so frendless or abandoned, that they cannot excite some interest, and procure, if necessary, a very respectable list of names to their petitions.

Formerly, the power was unaccompanied by any restraint or qualification whatever; and, it is not improbable, was sometimes improperly exercised. The appeals of innocent and afflicted families are not easily resisted.

Under the new Constitution, the Governor is required to communicate to the General Assembly "every case of reprieve, commutation or pardon granted, stating the name and crime of the convict, the sentence, its date, and the date of the commutation, pardon, or reprieve, with the *reasons* therefor."

This provision must necessarily operate as a very severe restriction upon the exercise of the power referred to. The appeal must hereafter be made to the judgment rather than the sympathies of our nature. Reasons once assigned, will be regarded as precedents in favor of other applications, and the penalties of the law would thus gradually be divested of all moral and practical force.

Certainty, rather than *severity* of punishment, is believed to afford the best security against the commission of crime. Our laws are administered with great humanity. Two juries—grand and traverse—have each to ascertain the guilt of the accused, while the judge, who has heard the testimony and arguments on both sides, is generally required to concur.

Still, all human tribunals are liable to err, and it is not impossible that, by the universality of the law and the strict application of general rules, the innocent may sometimes be improperly involved. It was in view of these circumstances that the pardoning power was conferred upon the Governor, and I have not hesitated to interfere in every case, where, by the disclosure of facts, unknown at the time of the trial, a reasonable doubt has been created in relation to the justice of the sentence.

The courts are restrained in many cases, from fixing the term of confinement in the Penitentiary, under three years; and this is not unfrequently made the ground of an application to the Executive, at the end of one or two years. I would suggest a modification of the laws in this particular, so as to authorize the judges to sentence for a shorter period.

Permit me in connection with this subject, to call your attention to the very large number of juveniles now confined in this institution. Considerations of sound policy, as well as of humanity, create strong doubts in my mind as to the propriety of the present system of punishing this class of delinquents. Offences committed by boys are usually the result of idleness, improper associations, and the absence of proper parental care.

They are very different, in degree and moral turpitude, from those of the deliberate and confirmed criminal.

Punishment, besides securing the peace and safety of society, is designed to repress crime and reform the offender. The last of these objects is particularly applicable to the inexperienced and unfortunate youth.—While many of the old are entirely beyond the reach of hope, there is scarcely a youth that may not be reclaimed.

To bring about this result, however, a classification of offences, founded upon the age of those by whom they are committed, should be recognized by law, and an institution organized with facilities for teaching the juvenile offender the various pursuits and duties of life, together with the elementary branches of a common education. Institutions of this character have been established in several of our sister States, and in every instance have produced the most salutary results.

The reports of the Trustees and of the several Superintendents, furnish full information of the condition and wants of the benevolent institutions.

The repairs and improvements at the Lunatic Asylum which were authorized by appropriations, at the last session of the General Assembly, are nearly completed, and promise to add greatly to the comfort of the Institution.

The great increase of pupils in the Institution for the Deaf and Dumb, requires that additional room should be provided for them.

A personal examination of that Institution has satisfied me, that the time has arrived for the erection of a new building, with adequate room and suitable accommodations.

The site of a new edifice has been a subject of frequent discussion. It has been suggested by many, that the Institution should be removed into the country, and the present buildings and grounds, which are now almost in the heart of the city, eventually sold. To this proposition, the present and late superintendents have been strongly opposed. Their experience in the education of the Deaf and Dumb, gives great weight to their opinions, especially, as some of them rest on educational grounds.

I would submit to your consideration, the propriety and justice of giving to the Board of Trustees a suitable compensation for their services. The labor which they are required to perform, and the responsibility imposed upon them, are too great to be performed gratuitously.

There is a class of persons, with equally strong claims upon our sympathies, who do not seem to be embraced within the range of the beneficial operations of these Institutions. I allude to the inbecile and idiotic, of whom there is said to be a large number in the State.

Idiocy and insanity, until lately, were confounded, so far at least as efforts were made for their amelioration and relief. The proper distinctions are now observed, and each class is found amenable to different modes of treatment.

Idiocy is understood to consist in an impaired condition of the powers of the mind, and an entire want of the reasoning faculties. Persons thus afflicted are not responble for their acts, and must necessarily, therefore, become a public or private charge.

Possessing muscular force, some traces of memory, and the powers of imitation, they are capable of being trained to perform many of the necessary duties of life.

Our common schools, from their universal diffusion, located as they are in every neighborhood, distributing their healthful influence to every family, should always be regarded as among the very first objects of legislative care. They have not inaptly, at times, been styled "the people's colleges," and are certainly the palladium and most effectual defence of our free institutions.

The New Constitution makes it imperitive on the General Assembly, "to make such provisions by taxation, or otherwise, as with the income arising from the School Trust Fund, will secure a thorough and efficient system of common schools throughout the State."

In accordance with this requirement of the Constitution, the last General Assembly, with almost entire unanimity, passed a law re-constructing our educational system,—elevating its standard, extending its usefulness, and imparting to it a greater degree of efficiency.

It is claimed by the friends of the system thus created, that the new features engrafted upon it, are decided improvements:—in perfect accordance with the educational progress of the age, and the educational demands of our rapidly increasing population.

In a republic, like ours, founded as it is on the virtue and intelligence of the people at large, the thorough and efficient education of those who are soon to assume the duties and responsibilities of government in all its departments, is essential to the healthful existence of the government itself, and cannot be neglected without danger to the vital interests of our free institutions.